IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 22112 of 2004

Between:

M/s Indian Oil Corporation Limited,

Visakhapatnam Terminal,
Malkapuram, Visakhapatnam,

rep. by its Law Officer, Mr.Sanjai Padiyath.

..... PETITIONER

AND

1 The Authorised Officer and Assistant Commissioner Division-1, Visakhapatnam.
2 The Commissioner of Central Excise (Appeals), Hyderabad.
3 The Deputy Commissioner of Central Excise O/o.Assistant Commissioner of Central Excise, Division-1, Visakhapatnam.
4 The Commissioner of Central Excise (Appeals), Port Area, Customs House, Visakhapatnam.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in physically attaching quantities of furnace oil in storage Tank No.33 at Visakhapatnam Terminal of the petitioner as illegal and unjustified and direct the 1st respondent to release the tank from attachment and

further restrain the 1st respondent from taking any steps for recovery of the disputed duty pending disposal of the appeal/interlocutory applications filed by the petitioner by the 2nd or 4th respondent.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court at the admission stage made the following ORDER: (per BRSR,J)

Heard the learned Senior Counsel appearing on behalf of the petitioner and learned Standing Counsel appearing for Central Government and requested the matter to be taken up for disposal at the stage of admission.

Rule nisi.

For the very same reasons recorded in WP.No.22175 of 2004, dated 02-12-2004, this writ petition is also disposed of directing the respondents herein to forthwith raise the attachment of the attached property, namely, 4901.13 KL @ Nat of Furnace Oil present in Tank No.33 of M/s IOCL(VT), subject to the condition of petitioner depositing a sum of Rs.1,75,00,000/-, within a period of two weeks from today, failing of which, the same shall result in revival of the attachment order.

The Commissioner of Customs and Central Excise (Appeals), Visakhapatnam, is directed to dispose of the petition filed seeking modification of the order dated 10-08-2001 filed by the petitioner on 09-11-2001, after providing an opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of copy of this order. The deposited amount shall be subject to the result of the orders to be passed by the Commissioner of Customs and Central Excise (Appeals), Visakhapatnam, in the petition filed seeking modification of the stay order passed under Section 35 of the Central Excise Act, 1944 .

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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B.SUDERSHAN REDDY, J

DATE: 2nd November, 2004

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T.CH.SURYA RAO, J

Note: furnish copy by today.

B/o

Kvni/gj

To

1 The Authorised Officer and Assistant Commissioner Division-1, Visakhapatnam.
2 The Commissioner of Central Excise (Appeals), Hyderabad.
3 The Deputy Commissioner of Central Excise O/o.Assistant Commissioner of Central Excise, Division-1, Visakhapatnam.
4 The Commissioner of Central Excise (Appeals), Port Area, Customs House, Visakhapatnam.

5 Two CD copies.

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

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WRIT PETITION NO : 22175 of 2004

Date: 02-12-2004

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